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8 **UNITED STATES DISTRICT COURT**  
9 **NORTHERN DISTRICT OF CALIFORNIA**

10  
11 STEVEN BREAUX, individually and on  
behalf of all other similar situated  
12 individuals,

13 Plaintiffs,

14 v.

15 ACCREDITED SURETY AND  
CASUALTY COMPANY, *et al.*,

16 Defendants.  
17

Case No. 3:19-cv-00717-JST

**SHONETTA CRAIN AND KIRA SERNA'S  
NOTICE OF PENDENCY OF OTHER  
ACTION OR PROCEEDING PURSUANT  
TO LOCAL RULE 3-13 AND NOTICE OF  
RELATED CASE PURSUANT TO  
CALIFORNIA RULE OF COURT 3.300(D)**

1 Plaintiffs Shonetta Crain and Kira Serna (“State Plaintiffs”) file this Notice to inform the  
2 Court and all parties of record of the pendency of another action in state court which overlaps  
3 with this action, pursuant to California Rule of Court 3.300(d) and Local Civil Rule 3-13(a).

4 **I. INTRODUCTION**

5 The State Plaintiffs are plaintiffs in a nearly identical action already pending in Alameda  
6 County Superior Court. *See Crain et al. v. Accredited Surety & Ins. Co., et al.*, Case No.  
7 RG19004509 (Cal. Super. Ct. Alameda) (“State Action”) (filed January 29, 2019). State  
8 Plaintiffs therefore file this notice, as required by Local Civil Rule 3-13(a) and California Rule of  
9 Court 3.300(d),<sup>1</sup> to advise the Court of the State Action. Both actions allege the same conspiracy  
10 among bail bond companies and sureties to artificially increase the prices of bail bonds in  
11 California. Because of the nearly identical allegations and claims in the two cases, State Plaintiffs  
12 respectfully submit that “proceedings should be coordinated to avoid conflicts, conserve  
13 resources and promote an efficient determination of the action[s].” Local Civ. R. 3-13(b)(3)(C).  
14 Further, as explained below, this Court lacks subject matter jurisdiction over the Federal Action.  
15 As a result, State Plaintiffs may seek to intervene in this action at an appropriate time.

16 **II. THE RELATED ACTIONS**

17 The State Plaintiffs filed their Complaint in Alameda County Superior Court on January  
18 29, 2019 (attached hereto as Exhibit B). This Federal Action was initiated ten days later, on  
19 February 8, 2019. (*See* Dkt. 1.) The State and Federal Actions are essentially identical. Both  
20 allege that defendants, bail bond companies and sureties, conspired to restrain competition over  
21 bail bonds, requiring hundreds of thousands of Californians to pay more than they otherwise  
22 would have to release themselves or others from pre-trial detention in California’s criminal justice  
23 system. Both actions assert claims for violation of two California statutes, the Cartwright Act,  
24 Cal. Bus. & Prof. Code § 16720, and Unfair Competition Law, Cal. Bus. & Prof. Code § 17200,  
25 and seek similar damages and injunctive relief. The actions also name the same defendants: the  
26

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27 <sup>1</sup> Attached as Exhibit A is a copy of the notice of related case pursuant to California Rule of  
28 Court 3.300(d) filed by State Plaintiffs in the State Action on February 22, 2019.

1 State Action asserts claims against 32 companies<sup>2</sup> and two individuals, Jerry Watson and William  
2 Carmichael, while the Federal Action names the same 32 companies but not the individual  
3 defendants. Both actions seek to represent proposed classes of purchasers of California bail  
4 bonds between 2004 and the present. The two proposed classes differ only in that (1) the State  
5 Action limits the purchase of bail bonds to those for California state court criminal proceedings,  
6 while the Federal Action appears to include in the proposed class persons who paid for surety  
7 bonds in federal criminal court in California (notwithstanding that the complaint does not include  
8 any allegations about bail bonds in federal criminal proceedings), *compare* State Action Compl. ¶  
9 49 (limiting class to “a commercial bail bond premium [purchased] in connection with a  
10 California state court criminal proceeding”) *with* Federal Action Compl. ¶ 127 (including any  
11 “commercial bail bond . . . in California”), and (2) the Federal Action is limited to “Plaintiffs and  
12 all other individuals *in California*,” Federal Action Compl. ¶ 127 (emphasis added), while the  
13 State Action does not include a geographic limitation.

14 The State Action is pending before Judge Seligman in Alameda County Superior Court.  
15 Summons have been served on all defendants, pending return of signed notices of  
16 acknowledgment. With the complaint, State Plaintiffs also served all Defendants with a detailed  
17 preservation letter. State Plaintiffs propounded written discovery on two individual defendants on  
18 February 20, 2019. The same written discovery will be served on all other defendants shortly.  
19 *See* Cal. Civ. Code Proc. § 2031.020(b). A Complex Case Determination hearing is scheduled  
20 for March 12, 2019, and a Case Management Conference and motion for appointment of interim

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21 <sup>2</sup> The Corporate Defendants are: Accredited Surety and Casualty Company, Aegis Security  
22 Insurance Company, Allegheny Casualty Company, American Contractors Indemnity Company,  
23 American Surety Company, Associated Bond and Insurance Agency, Inc., Bankers Insurance  
24 Company, Bond Safeguard Insurance Company, Crum & Forster Indemnity Company,  
25 Danielson National Insurance Company, Financial Casualty & Surety, Inc., Harco National  
26 Insurance Company, Indiana Lumbermens Mutual Insurance Company, International Fidelity  
27 Insurance Company, Lexington National Insurance Corporation, Lexon Insurance Company,  
28 National American Insurance Company, North River Insurance Company, Philadelphia  
Reinsurance Corporation, Safety First Insurance Company, Seaview Insurance Company, Seneca  
Insurance Company, Stillwater Property and Casualty Insurance Company, Sun Surety Insurance  
Company, United States Fire Insurance Company, Universal Fire & Insurance Company,  
Continental Heritage Insurance Company, Williamsburg National Insurance Company, All-pro  
Bail Bonds Inc., Two Jinn, Inc., American Bail Coalition, Inc., California Bail Agents  
Association, and the Golden State Bail Agents Association.

1 class counsel are scheduled for April 23, 2019. In the Federal Action, the Court set a Case  
2 Management Conference for May 22, 2019. (Dkt. 9.)

### 3 **III. SUBJECT-MATTER JURISDICTION**

4 The State Plaintiffs filed in California Superior Court because there is no federal subject  
5 matter jurisdiction under the “local controversy” exception to the Class Action Fairness Act  
6 (“CAFA”). *See* 28 U.S.C. § 1332(d)(4)(A) and State Action Compl. (Ex. A) ¶ 8. Federal  
7 Plaintiffs, by contrast, claim this Court’s subject matter jurisdiction under CAFA. *See* 28 U.S.C.  
8 §§ 1332(d)(2), (d)(5) and Federal Action Compl. ¶ 7.<sup>3</sup>

9 If the State Action is removed to federal court and related to this case, the State Plaintiffs  
10 intend to move for remand based on a lack of subject matter jurisdiction because at least two-  
11 thirds of proposed class members are California citizens, significant relief is sought from at least  
12 one Defendant who is a California citizen and whose conduct forms a significant basis for the  
13 claims asserted, and the principal injuries resulting from the alleged conduct were incurred in  
14 California. *See* 28 U.S.C. § 1332(d)(4)(A) and State Action Compl. ¶ 8. The lack of subject  
15 matter jurisdiction is even clearer in the Federal Action, because it explicitly limits potential class  
16 members to persons “in California.” Federal Action Compl. ¶ 127.

17 If no Defendant in the State Action removes that case, State Plaintiffs will likely seek this  
18 Court’s permission to intervene in the Federal Action pursuant to Federal Rule of Civil Procedure  
19 24 in order to seek a stay of this case pending resolution of the State Action. State Plaintiffs  
20 would argue that this Federal Action should be stayed “to avoid conflicts, conserve resources and  
21 promote an efficient determination of the action.” Local Civ. R. 3-13(b)(3)(C). A stay of the  
22 Federal Action in favor of the first-filed State Action would be necessary to avoid duplicative  
23 litigation, the potential for conflicting rulings, and wasted court and party resources. *See, e.g.,*  
24 *Garcia v. Citigroup, Inc.*, Case No. 11-cv-00692-JF (PSG), 2011 WL 3759944, at \*1-2 (N.D. Cal.  
25 Aug. 25, 2011) (staying class action in federal court where “substantially similar” class action  
26 was pending in state court); *Aurionpro Solutions, Inc. v. Saicon Consultants, Inc.*, Case No. 17-

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27 <sup>3</sup> The Federal Plaintiffs also plead supplemental jurisdiction under 28 U.S.C. § 1367(a), *see*  
28 Federal Action Compl. ¶ 7, but do not assert any federal claims subject to original jurisdiction.

1 cv-01951-EMC, 2018 WL 4191494, at \*2 (concluding that “a stay of proceedings . . . pending a  
2 final judgment in the state court proceeding will promote judicial economy” because “[t]he issues  
3 raised in the instant case will all be addressed in the state court proceeding”). California also has  
4 an interest in adjudicating state law claims relating to bail bonds in its criminal courts. *See*  
5 *Government Employees Ins. Co. v. Dizol*, 133 F.3d 1220, 1225 (9th Cir. 1998) (“The district court  
6 should avoid needless determination of state law issues . . . . If there are parallel state  
7 proceedings involving the same issues and parties pending at the time the federal declaratory  
8 action is filed, there is a presumption that the entire suit should be heard in state court.”).

9 **IV. CONCLUSION**

10 In addition to providing this Notice, State Plaintiffs stand ready to submit additional  
11 briefing on these issues, provide updates regarding the status of the State Action, or appear at case  
12 management conferences in the Federal Action.

13 Dated: February 22, 2019

14 Respectfully submitted,

15  
16 By: /s/ Dean M. Harvey

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**PROOF OF SERVICE BY MAIL**

I am over the age of eighteen years and not a party to the within-entitled action. My business address is 275 Battery Street, 29th Floor, San Francisco, CA 94111. I am readily familiar with this firm's practice for collection and processing of correspondence for mailing with the United States Postal Service. On February 22, 2019, I placed with this firm at the above address for deposit with the United States Postal Service a true and correct copy of the within document(s):

**SHONETTA CRAIN AND KIRA SERNA'S NOTICE OF PENDENCY OF OTHER ACTION OR PROCEEDING PURSUANT TO LOCAL RULE 3-13 AND NOTICE OF RELATED CASE PURSUANT TO CALIFORNIA RULE OF COURT 3.300(d); and EXHIBITS**

in a sealed envelope, postage fully paid, addressed as follows:

Accredited Surety and Casualty  
Company  
c/o: Cogency Global, Inc.  
1325 J Street, Suite 1550  
Sacramento, CA 95814

Aegis Security Insurance Company  
c/o: CT Corporation System  
818 West 7th Street, Suite 930  
Los Angeles, CA 90017

All-Pro Bail Bonds Inc.  
c/o: Steffan Gibbs  
512 Via De La Valle, Suite 301  
Solana Beach, CA 92075

American Bail Coalition, Inc.  
c/o: 485 Chestnut Street  
Meadville, PA 18335

American Contractors Indemnity  
Company  
c/o: Anna Noveman  
801 Figueroa Street, Suite 700  
Los Angeles, CA 9001

American Surety Company  
c/o: John Sebastinelli  
455 Market Street, Suite 1420  
San Francisco, CA 94105

Associated Bond and Insurance  
Agency, Inc.  
c/o: Brian Nairin  
26560 Agoura Road, STE 100  
Calabasas, CA 91302-2015

Bankers Insurance Company  
c/o: CSC - Lawyers Incorporating  
Service  
2710 Gateway Oaks Drive, Suite  
150N  
Sacramento, CA 95833

Bond Safeguard Insurance Company  
c/o: CSC - Lawyers Incorporating  
Service  
2710 Gateway Oaks Drive, 150N  
Sacramento, CA 95833

California Bail Agents Association  
c/o: Gloria Mitchell  
359 W Mission Blvd.  
Pomona, CA 91766

Continental Heritage Insurance  
Company  
c/o: Nancy Flores  
818 W. 7th Street  
Los Angeles, CA 9001

Crum & Forster Indemnity Company  
c/o: George E. Burr  
1100 W. Town and Country Road,  
Suite 550  
Orange, CA 92868

Danielson National Insurance  
Company  
c/o: CSC Lawyers Incorporating  
Service  
2710 Gateway Oaks Drive, Suite  
150N  
Sacramento, CA 95833

Financial Casualty & Surety, Inc.  
c/o: Karissa Lowry  
2710 Gateway Oaks Drive  
Sacramento, CA 95833

Golden State Bail Agents Association  
c/o: Albert W. Ramirez  
1230 M ST  
Fresno, CA 93721

Harco National Insurance Company  
c/o: CT Corporation System  
818 West 7th Street, Suite 930  
Los Angeles, CA 90017

Indiana Lumbermen's Mutual  
Insurance Company  
c/o: Richard Orozco  
1220 S Street  
Sacramento, CA 95811

International Fidelity Insurance  
Company  
c/o: Dorothy O'Connor-Manson  
2999 Oak Road, Suite 820  
Walnut Creek, CA 94597

Lexington National Insurance  
Corporation  
c/o: CT Corporation System  
818 West 7th Street, Suite 930  
Los Angeles, CA 90017

Lexon Insurance Company  
c/o: CSC - Lawyers Incorporating  
Service  
2710 Gateway Oaks Drive, 150N  
Sacramento, CA 95833

National American Insurance  
Company of California  
c/o: CSC Lawyers Incorporating  
Service  
2710 Gateway Oaks Drive, Suite  
150N  
Sacramento, CA 95833

North River Insurance Company  
c/o: George E. Burr  
1100 W. Town and Country Road,  
Suite 550  
Orange, CA 92868

Philadelphia Reinsurance Corporation  
c/o: Kieran Anthony Sweeney  
350 10th Avenue, Suite 1450  
San Diego, CA 92101

Safety First Insurance Company  
c/o: Safety First - Vivian Imperial  
818 W. 7th Street  
Los Angeles, CA 90017

Seaview Insurance Company  
c/o: Allison Sterett  
1000 Aviara Parkway, Suite 300  
Carlsbad, CA 92011

Seneca Insurance Company  
c/o: Roger McNitt  
Blanchard Krasner & French  
800 Silverado Street  
La Jolla, CA 92037

Stillwater Property and Casualty  
Insurance Company  
c/o: CT Corporation System  
818 West 7th Street, Suite 930  
Los Angeles, CA 90017

Sun Surety Insurance Company  
c/o: Suh Choi  
Barger & Wolen  
633 W 5th Street, 46th Floor  
Los Angeles, CA 90071

Two Jinn, Inc.  
c/o: Peter Botz  
1000 Aviara Parkway, Suite 300  
Carlsbad, CA 92011

United States Fire Insurance Company  
c/o: George E. Burr  
1100 W. Town and Country Road,  
Suite 550  
Orange, CA 92868

Universal Fire & Casualty Insurance  
Company  
c/o: Patricia Laura Taylor  
45100 Yucca Avenue  
Lancaster, CA 93534

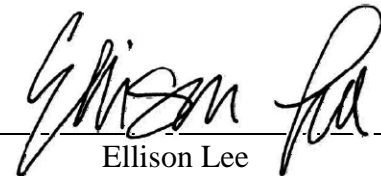
Williamsburg National Insurance  
Company  
c/o: CT Corporation System  
818 West 7th Street, Suite 930  
Los Angeles, CA 90017

William B. Carmichael  
7960 N. Pennsylvania Street  
Indianapolis, IN 46240-2533

Jerry Watson  
4532 Falkirk Bay  
Oxnard, CA 93035-3705

Following ordinary business practices, the envelope was sealed and placed for collection and mailing on this date, and would, in the ordinary course of business, be deposited with the United States Postal Service on this date.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct. Executed on February 22, 2019, at San Francisco, California.

  
Ellison Lee